

SENATE BILL 389

By Bell

AN ACT to amend Tennessee Code Annotated, Title 4; Title 39; Title 41; Title 57; Title 62 and Title 68, relative to the restructuring of certain state agencies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-11-102, is amended by deleting the section in its entirety and by substituting instead the following:

4-11-102.

(a) There is created the Tennessee commission on historic preservation, to be composed of the governor, the state historian, the state archaeologist, the commissioner of environment and conservation, the state librarian and archivist as ex officio voting members, and twelve (12) members appointed by the governor.

(b)

(1) The twelve (12) members appointed by the governor shall be representative of the grand divisions of the state as follows:

(A) Three (3) members shall be residents of the eastern grand division at the time of their appointment;

(B) Three (3) members shall be residents of the middle grand division at the time of their appointment;

(C) Three (3) members shall be residents of the western grand division at the time of their appointment; and

(D) Three (3) members shall be residents of the state at large.

(2) The governor shall appoint a chairman from among the members of the board. The term as chairman shall be for two (2) years.

(c)

(1) In order to stagger the terms of the members, the governor shall appoint the initial members of the commission as follows:

(A) Three (3) members shall be appointed for a term of two (2) years;

(B) Three (3) members shall be appointed for a term of three (3) years;

(C) Three (3) members shall be appointed for a term of four (4) years; and

(D) Three (3) members shall be appointed for a term of five (5) years.

(2) Thereafter, the length of term for appointed members shall be five (5) years.

(3) In case of death or resignation of any appointed member of the commission, the member's successor shall be appointed by the governor for the remainder of the unexpired term.

(4) Upon appointment of the initial terms of the Tennessee commission on historic preservation, the membership of the Tennessee historical commission shall be vacated.

(d) In making appointments to the commission, the governor shall strive to ensure that at least one (1) person serving on the commission is sixty (60) years of age or older and that at least one (1) person serving on the commission is a member of a racial minority. At least three (3) persons serving on the commission shall have an academic background in history or historic preservation, or both, preferably a master's degree. In making appointments, the

appointing authority shall make a conscious effort to ensure that persons meeting these criteria are inclusive of African-Americans and of Native American ancestry.

(e) Members who have been granted the title “member emeritus” by an action of the commission, or who were granted the title “member emeritus” prior to January 15, 2013, by action of the Tennessee Historical Commission, shall retain the same rights and privileges of other members, except the right to vote at meetings of the commission and the right to reimbursement of expenses.

(f) All members of the commission may be paid necessary expenses while engaged in the work of the commission. All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations as promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 2. Tennessee Code Annotated, 4-11-105, is amended by deleting the section in its entirety and by substituting instead the following new language:

4-11-105.

(a) The commission shall have an executive director, appointed by the governor, and who shall serve at the pleasure of the governor. The executive director shall have professional or academic experience in history or historic preservation, or both. Prior to appointing the executive director, the governor shall request that the commission conduct a search for qualified candidates. The commission shall submit to the governor at least three (3) interested and qualified candidates. The commission shall submit additional candidates at the governor’s request.

(b) The executive director shall have the authority to create such positions and employ such personnel as are deemed necessary to conduct its affairs, upon approval by the commission, and in accordance with the law and rules applicable to employees in the unclassified state service.

(c) All reimbursement for travel expenses shall be in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

SECTION 3. Tennessee Code Annotated, 4-11-201, is amended by deleting the language “historical commission” and by substituting instead the language “commission on historic preservation”.

SECTION 4. Tennessee Code Annotated, 4-11-207, is amended by deleting the language “historical commission” and by substituting instead the language “commission on historic preservation”.

SECTION 5. Tennessee Code Annotated, Section 41-52-104, is amended by deleting the section in its entirety and by substituting instead the following new language:

41-52-104. The council shall be attached to the department of corrections for administrative purposes.

SECTION 6. Tennessee Code Annotated, Section 57-1-208, is amended by deleting the section in its entirety.

SECTION 7. Tennessee Code Annotated, Section 62-1-105, is amended by deleting subsection (c) in its entirety and by substituting instead the following new language:

(c)

(1)

(A) The board shall have an executive director, who shall be a certified public accountant with an active certificate in the state. The board shall establish the qualifications for the executive director of the board. The board shall appoint the executive director and shall establish the compensation for the executive director.

(B) The executive director of the board shall have an adequate staff, including part-time personnel, as determined by the board. The executive director shall be responsible for the daily operation of the board, including, but not limited to:

- (i) Maintaining and securing all necessary records and files;
- (ii) Ensuring adequate meeting space for board meetings;
- (iii) Implementing board policies and procedures;
- (iv) Informing the board about state policies and procedures;
- (v) Directing the activities of board staff;
- (vi) Coordinating the operations and activities of the board and its staff with the division of regulatory boards in the department of commerce and insurance; and
- (vii) Any other matters delegated by the board.

(C) The executive director and the board staff shall be subject to any performance review and other general requirements as set forth in title 8, chapter 30, part 1, and as otherwise required of state employees.

(2) The board shall retain and establish the qualifications and compensation for investigators and other staff requiring professional qualifications.

(3) The executive director and all members of the board's staff requiring professional qualifications shall serve at the pleasure of the board. However, the commissioner, after consultation with the board, shall have the authority to dismiss the executive director for cause.

(4)

(A) The board shall determine annually in advance its expenditures for equipment, peer review and other professional programs and participation in the activities designed to promote communications, reciprocity and collaboration with other state boards of accountancy. The expenditures so established, together with all other expenses of the board, shall not exceed the fees received by the board, including the accrual of fees previously received.

(B) The commissioner of finance and administration shall inform the board annually, for budgeting purposes, the allocation of overhead expense to the board.

(C) Any expenditure by the board under this section shall be subject to approval by the commissioner of finance and administration, pursuant to the board's annual budget submitted to the commissioner of commerce and insurance and approved by the commissioner of finance and administration.

SECTION 8. Tennessee Code Annotated, Section 62-36-114, is amended by deleting subdivision (5) in its entirety and by substituting instead the following new language:

(5) Receive, administer and account for all moneys derived under this chapter and transfer these funds to the state treasurer, who shall keep the moneys in a fund to be known as the "geologist and soil scientist regulatory fund." The fund shall be used to defray expenses incurred in the administration of the Geologist Licensure Act of 2007 and the Soil Scientist Licensure Act of 2009.

SECTION 9. Tennessee Code Annotated, Section 62-18-211, is amended by deleting subdivision (6) in its entirety and by substituting instead the following new language:

(6) Receive, administer, and account for all moneys derived under the provisions of this part, and transfer such funds to the state treasurer who shall keep such moneys in a fund, herein established, to be known as the "geologist and soil scientist regulatory fund." The fund shall be used to defray expenses incurred in the administration of the Geologist Licensure Act of 2007 and the Soil Scientist Licensure Act of 2009.

SECTION 10. Tennessee Code Annotated, 68-11-1604, is amended by adding the following language as a new subsection:

(f) The governor shall appoint a chair from among the members of the board for a term of two (2) years.

SECTION 11. Tennessee Code Annotated, Section 4-29-234(a), is amended by deleting subdivision (26) in its entirety.

SECTION 12. Notwithstanding the provisions of § 4-29-112 or any other law to the contrary, the drycleaner environmental response board, created by § 68-217-104, shall terminate and shall cease to exist upon the effective date of this act.

SECTION 13. Tennessee Code Annotated, Section 68-217-102, is amended by deleting subdivision (2) in its entirety.

SECTION 14. Tennessee Code Annotated, Section 68-217-104(a), is amended by deleting the word "superfund" and by substituting instead the word "remediation".

SECTION 15. Tennessee Code Annotated, Section 68-217-104, is amended by deleting subsection (b) in its entirety and by substituting instead the following new language:

(b) From time to time the commissioner may appoint a drycleaners advisory committee that shall advise the commissioner on matters related to the drycleaner environmental response program, including, but not limited to, proposed rules and changes to fees. The commissioner may determine the identity and number of committee members and the term during which the committee will operate. When appointing members the commissioner shall consider the nature of the issues that are relevant to the charge given to the committee. The commissioner shall appoint persons from affected interests which may include large and small drycleaners, facilities that use or have used dense non-aqueous solvent, facilities that use or have only used light non-aqueous solvent, property owners where drycleaners are located, and environmental interests. No member of the committee is entitled to a salary for duties performed as a member of the committee and no member of the committee is entitled to reimbursement for travel or other expenses incurred in the performance of the member's official duties.

SECTION 16. Tennessee Code Annotated, Section 68-217-105(a), is amended in the first sentence by deleting the language "board" and by substituting instead the language "commissioner".

SECTION 17. Tennessee Code Annotated, Section 68-217-105(a)(2), is amended by deleting the language "board and".

SECTION 18. Tennessee Code Annotated, Section 68-217-105(a), is amended by deleting subdivision (3) in its entirety and by substituting instead the following new language:

(3) Review and accept or deny the petition for entry into the program based on the standards set out in subdivision (a)(5), and prioritize petitions described in this chapter according to promulgated rules and established guidelines. In establishing

guidelines for site prioritization, the commissioner shall consider the degree of risk to human health and the environment and other factors as the commissioner may deem appropriate.

SECTION 19. Tennessee Code Annotated, Section 68-217-105(a)(4), is amended by deleting the language "to petition the board for:" and by substituting instead the language "to petition the commissioner for:".

SECTION 20. Tennessee Code Annotated, Section 68-217-105(a)(4), is further amended by deleting subdivision (D) in its entirety and by substituting instead the following new language:

(D) Administrative review of the final actions of the commissioner.

SECTION 21. Tennessee Code Annotated, Section 68-217-105(a)(5), is amended by deleting the word "board" wherever it appears and by substituting instead the word "commissioner".

SECTION 22. Tennessee Code Annotated, Section 68-217-105(a)(6), is amended by deleting the word "board" wherever it appears and by substituting instead the word "commissioner".

SECTION 23. Tennessee Code Annotated, Section 68-217-105(a)(7), is amended by deleting the word "board" in the second sentence and by substituting instead the word "commissioner".

SECTION 24. Tennessee Code Annotated, Section 68-217-105, is amended by deleting subsection (b) in its entirety and by redesignating the subsequent subsections accordingly.

SECTION 25. Tennessee Code Annotated, Section 68-217-105(c), is amended by deleting the word "board" wherever it appears and by substituting instead the word "commissioner".

SECTION 26. Tennessee Code Annotated, Section 68-217-105(d), is amended in the first sentence by deleting the word "board" and by substituting instead the word "commissioner".

SECTION 27. Tennessee Code Annotated, Section 68-217-105(e), is amended by deleting the word "board" and by substituting instead the word "commissioner".

SECTION 28. Tennessee Code Annotated, Section 68-217-106(c), is amended by deleting the word "board" and by substituting instead the word "commissioner".

SECTION 29. Tennessee Code Annotated, Section 68-217-106(d), is amended by deleting the word "board" wherever it appears and by substituting instead the word "commissioner".

SECTION 30. Tennessee Code Annotated, Section 68-217-106(k)(1), is amended by deleting the word "board" wherever it appears and by substituting instead the word "commissioner".

SECTION 31. Tennessee Code Annotated, Section 68-217-106, is amended by deleting subsection (m) in its entirety and by substituting instead the following:

(m) If the money in the fund exceeds ten million dollars (\$10,000,000) during any one (1) year, the department shall waive the payment of the solvent surcharges and collect only the registration fees for a period of one (1) year.

SECTION 32. Tennessee Code Annotated, Section 68-217-106(n), is amended by deleting the word "board" and by substituting instead the word "commissioner".

SECTION 33. Tennessee Code Annotated, Section 68-217-107(a), is amended by deleting the word "board" and by substituting instead the word "commissioner".

SECTION 34. Tennessee Code Annotated, Section 68-217-107, is amended by deleting subsection (b) in its entirety and by substituting instead the following new language:

(b) The commissioner may not authorize the expenditure of funds from the fund in excess of two hundred thousand dollars (\$200,000) per year for releases from any

individual drycleaning facility, abandoned drycleaning facility, or in-state wholesale distribution facility, nor authorize a distribution of moneys from the fund that would result in a diminution of the fund below a balance of one hundred thousand dollars (\$100,000) unless an emergency exists at a drycleaning facility, abandoned drycleaning facility, or in-state wholesale distribution facility that constitutes an imminent and substantial harm to human health or the environment. In the event of an emergency as described in this subsection (b), the commissioner shall approve the reimbursement of reasonable response costs to remove the imminent and substantial threat to human health or the environment.

SECTION 35. Tennessee Code Annotated, Section 68-217-107(c), is amended by deleting the word "board" wherever it appears and by substituting instead the word "commissioner".

SECTION 36. Tennessee Code Annotated, Section 68-217-107(c), is further amended by deleting the language "This provision is not subject to the board's general power to delegate its duties as contained in § 68-217-105(b)."

SECTION 37. Tennessee Code Annotated, Section 68-217-107(d), is amended by deleting the word "board" wherever it appears and by substituting instead the word "commissioner".

SECTION 38. Tennessee Code Annotated, Section 68-217-107, is amended by deleting subsection (e) in its entirety.

SECTION 39. Tennessee Code Annotated, Section 68-217-109, is amended by deleting the section in its entirety and by substituting instead the following:

68-217-109. The fund shall be available to the commissioner for reasonable administrative expenditures associated with administering the fund.

SECTION 40. Tennessee Code Annotated, Section 68-217-110, is amended in the first sentence by deleting the word "board" and by substituting instead the word "commissioner".

SECTION 41. Tennessee Code Annotated, Section 68-217-110, is further amended in the first sentence by deleting the language "its duties and responsibilities" and by substituting instead the language "the duties and responsibilities".

SECTION 42. Tennessee Code Annotated, Section 68-217-111, is amended by deleting the word "board" wherever it appears and by substituting instead the word "commissioner".

SECTION 43. Tennessee Code Annotated, Section 68-217-113(1), is amended by deleting the language "and the board".

SECTION 44. All rules, regulations, orders and decisions heretofore issued or promulgated by the drycleaner environmental response board, together with any matters that are pending on the effective date of this act shall hereafter be administered, enforced, modified or rescinded by the commissioner.

SECTION 45. This act shall take effect July 1, 2013, the public welfare requiring it.